

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2000-0710-010-040

vs.

Susan (O'Connor) Jacobson, RN, Lic. No. R45660
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated July 20, 2000. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Susan Jacobson (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On August 16, 2000, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent's registered nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated August 16, 2000, scheduling a hearing for September 6, 2000. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to respondent and respondent's attorney.

The hearing scheduled for September 6, 2000, was continued to March 7, 2001, at the Wethersfield Town Hall, Town Council Chambers, 505 Silas Deane Highway, Wethersfield, Connecticut. Dept. Exhs. 4 and 5.

Respondent was present during the hearing and was represented by counsel. Transcript, March 7, 2001, p. 2.

Respondent submitted a written Answer to the Statement of Charges. Rt. Exh. 9; Transcript, March 7, 2001, pp. 10-11.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued registered nurse license number R45660 on March 1, 1990. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-B.
2. Beginning on or about 1990, respondent was employed as a registered nurse at Backus Hospital, Norwich, Connecticut. Transcript, March 7, 2001, p. 32.
3. From on or about February to May 2000, while working as a registered nurse at Backus Hospital, respondent diverted for her own personal use the controlled substance morphine. Dept. Exh. 1-A; Resp. Exh. 9; Transcript, March 7, 2001, pp. 34-36.
4. Respondent has abused alcohol and the controlled substance morphine from on or about February 2000 to June 2000. Dept. Exh. 1; Rt. Exh. 9; Transcript, March 7, 2001, p. 37.
5. On or about June 23, 2000, respondent used the controlled substance heroin. Transcript, March 7, 2001, p. 37.
6. From May 30, 2000 to June 15, 2000, and again from July 4, 2000 to July 21, 2000, respondent underwent in-patient chemical dependency treatment at the Stonington Institute, North Stonington, Connecticut. Since 1994, respondent has been receiving individual therapy for chemical dependency and has been participating in Alcoholics Anonymous and the support group Nurses for Nurses. Resp. Exhs. 1, 5, 6 and 7; Transcript, March 7, 2001, pp. 18-22.
7. Respondent suffered personal, emotional, and family stress, which she believes caused her to divert and abuse the controlled substances and alcohol. Resp. Exhs. 1 and 2; Transcript, March 7, 2001, pp. 20-21, 42.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Susan Jacobson, held a valid registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by *Conn. Gen. Stat.* §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

PARAGRAPH 3 of the Statement of Charges alleges that between approximately May and June 2000, while working as a registered nurse at Backus Hospital, Norwich, Connecticut, respondent:

- a. diverted morphine;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more controlled substance receipt records;

PARAGRAPH 4 of the Statement of Charges alleges that from approximately May to June 2000, respondent has abused or excessively used the controlled substance morphine.

PARAGRAPH 5 of the Statement of Charges alleges that respondent's abuse of morphine does, and/or may, affect her practice as a registered nurse.

PARAGRAPH 6 of the Statement of Charges alleges that from approximately September to June 2000, respondent has abused or excessively used alcohol.

PARAGRAPH 7 of the Statement of Charges alleges that respondent's abuse of alcohol does, and/or may, affect her practice as a registered nurse.

PARAGRAPH 8 of the Statement of Charges alleges that in approximately May 2000, respondent abused heroin.

PARAGRAPH 9 of the Statement of Charges alleges that respondent's abuse of heroin does, and/or may, affect her practice as a registered nurse.

Respondent admits allegations in Paragraphs 3, 4, 6 and 8. Respondent denies the allegations in paragraphs 5, 7 and 9. Resp. Exh. 9; Transcript, March 7, 2001, pp. 10-11.

The General Statutes of Connecticut §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . . (6) fraud or material deception in the course of professional services or activities

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 2, 3, 4, 6 and 8 of the Statement of Charges is proven by a preponderance of the evidence presented. With regard to Paragraphs 5 and 7, the Board concludes respondent's abuse and excessive use of morphine and alcohol may affect her practice as a registered nurse. The Board further concludes that respondent's conduct constitutes violations of *Conn. Gen. Stat.* §20-99(b) (2), (5), and (6). Therefore, respondent's Registered Nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §19a-17.

With regard to Paragraph 9, the Board credits respondent's testimony that she used heroin only on occasion. Based upon the specific facts and circumstances of this case the Board does not conclude that respondent's one time use of heroin affects or may affect her practice as a registered nurse. Therefore, Paragraph 9 of the Statement of Charges is dismissed.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99, the Board of Examiners for Nursing hereby orders the following:

1. That the Summary Suspension of respondent's Registered Nurse license number R45660, ordered on August 16, 2000, is vacated on the effective date of this Memorandum of Decision.
2. That for Paragraphs 3, 4, 5, 6, 7 and 8 of the Statement of Charges, respondent's Registered Nurse license, number R45660, is placed on probation for a period of four (4) years.

3. If any of the following conditions of probation are not met, respondent's Registered Nurse License may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

- A. During the period of probation the Board shall pre-approve respondent's employment or change of employment within the nursing profession.
- B. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
- C. Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as a nurse during the probationary period.
- D. If employed as a nurse, respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period. Employer reports shall commence with the report due on the first business day of July 2001.
- E. The employer reports cited in Paragraph D above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph Q below.
- F. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board within seventy-two (72) hours of such termination.
- G. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph Q below.
- H. At her expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.

- I. Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- J. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period.
- K. The therapist reports cited in Paragraph J above shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph Q below.
- L. At her expense, respondent shall be responsible for submitting to observed random chain of custody urine and/or blood screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board of Examiners for Nursing to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process. Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.
 - (1) There must be at least one random alcohol/drug screen each week for the first, second, and fourth years of the probationary period. There must be at least two random alcohol/drug screens each month for the third year of the probationary period.
 - (2) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.
 - (3) Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

- (4) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph Q below, by respondent's therapist, personal physician or the testing laboratory.
- M. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- N. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment
- P. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- Q. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
Board of Examiners For Nursing
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

5. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Licensure and Registration Section of

the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

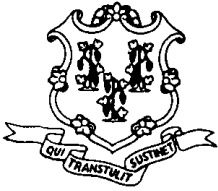
6. This Memorandum of Decision becomes effective, and the four year probation of respondent's registered nurse license shall commence, on August 1, 2001.

The Board of Examiners for Nursing hereby informs respondent, Susan Jacobson, RN, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 18th day of July 2001.

BOARD OF EXAMINERS FOR NURSING

By Nancy S. Beford



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

November 9, 2005

Susan Jacobson, RN
256 Lawler Lane
Norwich, CT 06360

Re: Memorandum of Decision
Petition No. 2000-0710-010-040
License No. R45660

Dear Ms. Jacobson:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective August 1, 2005.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,

A handwritten signature in cursive script that reads "Bonnie Pinkerton".

Bonnie Pinkerton, RN, Nurse Consultant
Practitioner Licensing and Investigations Section

cc: J. Filippone
J. Wojick



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